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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,960	06/20/2003	Mark W. Kiehl	1-24583	6584

27210 7590 08/25/2005

MACMILLAN, SOBANSKI & TODD, LLC  
ONE MARITIME PLAZA - FOURTH FLOOR  
720 WATER STREET  
TOLEDO, OH 43604

EXAMINER

COMPTON, ERIC B

ART UNIT PAPER NUMBER

3726

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/600,960

Applicant(s)

KIEHL, MARK W.

Examiner

Eric B. Compton

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/25/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 25, 2005 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 13-14 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. 6,681,488 to Marando in view of U.S. Pat. 3,232,085 to Inoue.

Marando discloses a method of manufacturing a vehicle frame assembly comprising first and second vehicle frame assemblies, which are secured together to form the vehicle frame. See Figure 7. The reference discloses hollow tubular member are placed in forming dies, which are used to deform the member into a frame member. See Figure 1-2. The reference, preferably relies on hydroforming, but does note that other metal deforming techniques can be used. Col. 5, lines 7-14.

However, the reference does not disclose "creating a single shock wave within a fluid to rapidly expand the hollow member into conformance with the die cavity."

Inoue discloses a method member of electro discharge forming various members including hollow tubular members. See e.g., Figure 6. The method involves

- a. providing a die cavity (50) having an defined by a die (2);
- b. providing a hollow tubular member (1);
- c. positioning said tubular member within said die cavity;
- d. filling said tubular member with a fluid (an insulating liquid);
- e. discharging an electric arc (between electrode 4 and 5) within said fluid to create a single shock wave within said fluid, thereby expanding said tubular member to conform to the shape of the die cavity; (see Col. 1, lines 62-62).

Inoue discloses the method is an improvement over conventional hydroforming. See Col. 1, line 18-31.

Regarding claim 13, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have formed the tubular vehicle frame of Marando by using a shock wave, in light of the teachings of Inoue, in order to better the force needed to deform the tubular member. See Col. 1, lines 53-55.

Regarding claim 14, Inoue relies on an electric arc between electrodes (4 and 5).

Regarding claim 17, Marando discloses feeding the tubular member into the die during expansion in order to minimize wall thickness reduction during forming. See Cols. 5-6, lines 62-6.

4. Claims 13, 15-16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marando in view of U.S. Pat. 3,548,630 to Chelminski.

Marando disclose the invention cited above. However, the reference does not disclose forming the shock wave within said fluid by rapidly advancing a piston within a fluid cylinder in communication with said fluid to expand said tubular member to conform to the shape of the die cavity.

Chelminski discloses a method and apparatus for forming material by sudden impulses. "This invention is adaptable to form the material into, against, or around a die and is also adaptable for the various ways of forming materials, for example, such as bulging, stretching, compacting, extruding, drawing, sizing, expanding, or shrinking." Col. 1, lines 43-48. The reference discloses that it is an improvement over electrical discharge forming, like disclosed by Inoue, which required high voltage and the wire must be replaced after each impulse. See Col. 1, lines 54-56. Instead, the reference teaching generating the impulses by rapidly advancing a piston (52) within a fluid cylinder (65) in communication with the fluid (30) to deform the workpiece (W). The apparatus can be adapted for use with present presses. Col. 2, lines 12-15.

Regarding claim 15, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have forming the shock wave of Marando within said fluid by rapidly advancing a piston within a fluid cylinder in communication with said fluid to expand said tubular member to conform to the shape of the die cavity, in light of the teachings of Chelminski, to avoid expendable parts, improve cycle time, apply consecutive impulses to progressive shape a workpiece. Col. 2, lines 1-12.

Regarding claim 16, Chelminski provides for an electromagnet (56) which advances the piston (52).

Regarding claim 17, Marando discloses feeding the tubular member into the die during expansion in order to minimize wall thickness reduction during forming. See Cols. 5-6, lines 62-6.

### ***Response to Arguments***

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Marando discloses forming tubular members for vehicle frames using hydroforming but notes other deforming processes can be used.

Inoue discloses a creating a single shockwave. See Col. 1, lines 62-64.

Chelminski discloses the alternative embodiments using a rapidly moving piston.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric B. Compton whose telephone number is (571) 272-4527. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David p. Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eric B. Compton  
Primary Examiner  
Art Unit 3726

ebc